

## ORDINANCE NO. 1704

The Board of Supervisors of the County of Amador ordains as follows:

SECTION 1. The title of Chapter 3.58 of the Amador County Code shall be changed to “Department of Transportation and Public Works Fees.”

SECTION 2. The title of Section 3.58.010, “Public works review fees,” shall be changed to “Public works review and inspection fees.”

SECTION 3. Sub-section 3.58.010 A of Chapter 3.58 of the Amador County Code shall be deleted and the following shall be adopted and substituted in place of the deleted sub-section:

“A. Each applicant to the county shall pay a fee for review services performed by the county department of transportation and public works for site visits for inspection purposes, parcel map review, subdivision map review, California Environmental Quality Act evaluation services, and review of requests for deviations from Chapter 1530. The fee for these review and inspection services will be based on the current weighted hourly charge out rate of staff directly involved in the inspection plus allowable overhead; the weighted hourly rate and overhead are based on requirements by the State of California Accounting Standards and Procedures for Counties, Appendix A-Road Fund Accounting. These fees shall not be applicable to map reviews that are initiated by the board or an advisory agency. Fees for preapplication conferences will also be charged as specified in this subsection.”

SECTION 4. Sub-section 3.58.020 B of Chapter 3.58 of the Amador County Code shall be deleted and the following revised Sub-section 3.58.020 B shall be adopted and substituted in place of the deleted sub-section:

“B. Except as set forth in Sub-section 12.10.060 B of the Amador County Code, fees for encroachment permits issued under Chapter 12.10 of the Amador County Code shall be in the amount of six hundred twenty-five dollars. If the department of transportation and public works determines upon completion of a site visit that an existing encroachment meets standards, then the fee will be returned less a site visit charge of eighty-five dollars.”

SECTION 5. A new Sub-section 3.58.020 C of Chapter 3.58 of the Amador County Code shall be added, which shall read as follows:

“C. Fees for encroachment permits issued to a public agency or public utility having lawful authority to occupy the highways (referred to herein as a “Public Agency”) shall be paid and administered as set forth in Chapter 12.10 of the Amador County Code.”

SECTION 6. Sub-section 12.10.010 A shall be deleted and the following revised Sub-section 12.10.010 A shall be adopted and substituted in place of the deleted sub-section:

“A. “Encroachment” includes any structure or object of any kind or character placed in, under, or over any county road. The term “encroachment” also applies to closure or other use of county roads for events that has the potential to adversely impact routine use of the roadway by vehicle traffic or pedestrians.”

SECTION 7. The second sentence of Section 12.10.020 shall be deleted .

SECTION 8. Sub-section 12.10.040 D shall be deleted and the following revised Sub-section 12.10.040 D shall be adopted and substituted in place of the deleted sub-section:

“D. Estimated time to begin and complete the event, work or placement of any encroachment.”

SECTION 9. Section 12.10.050 shall be deleted and the following revised Section 12.10.050 shall be adopted and substituted in place of the deleted section:

**“12.10.050 Emergency work.**

If in the course of events the owner of a previously approved encroachment finds that emergency repairs are necessary to protect the facility, or to protect the investment of the owner and/or to provide continuing service to the public, and the owner of the facility finds that the county office that would authorize the encroachment permit is not open, the owner may, after reporting to the appropriate law enforcement agency the nature of any encroachment into the public roadway that may affect vehicle traffic or pedestrians, and after notifying the Regional Notification Center (Underground Service Alert), conduct such work as is necessary to cause the needed repairs; provided, that the owner of the facility requests authorization for the work conducted on the next day that the county office that issues encroachment permits is open. Notwithstanding any other provisions of this code, no emergency work may be done if law enforcement determines that the proposed work would represent an unreasonable threat to the public health, welfare or safety.”

SECTION 10. Section 12.10.060 shall be deleted and the following revised Section 12.10.060 shall be adopted and substituted in place of the deleted section:

**“12.10.060 Annual permits for certain public agencies.** Fees for encroachment permits issued to a public agency or public utility having lawful authority to occupy the highways (referred to herein as a “Public Agency”) shall be paid and administered as follows:

A. A Public Agency may process an encroachment permit for a single project in the same manner as any other person under this Chapter 12.10.

B. A Public Agency at its option may elect to apply for a blanket encroachment permit to cover all activities for which an encroachment permit from the county is required. Any such blanket permit will be valid upon issuance and remain valid for the remainder of the calendar year of issuance and will be administered as follows:

1. The Public Agency will notify the county department of transportation and public works when it intends to undertake work in the county right of way, or has undertaken emergency work in the county right of way, in accordance with notice requirements established by the department.

2. To insure itself against liability and costs of inspection related to each Public Agency project, the county will charge a fee based upon the current weighted hourly charge out rate of personnel directly involved in the inspection plus allowable overhead; the weighted hourly rate and overhead are based on requirements by the State of California Accounting Standards and Procedures for Counties, Appendix A-Road Fund Accounting.

3. The county may request that the Public Agency deposit funds at the beginning of each permit year to cover the cost of inspection services, in an amount to be determined by the county department of transportation and public works. Unused funds at the end of the permit year will be refunded to the Public Agency or applied against the deposit for the next permit year, at the option of the Public Agency.

4. The blanket permit contemplated by this Sub-section 12.10.060 B shall apply to planned maintenance and repairs as well as unplanned work of an urgent nature. The blanket permit shall not apply to large projects undertaken by a Public Agency, which will be the subject of a separate encroachment permit or permits from the county under Sub-section 12.10.060 A above.

5. The county may require a Public Agency to provide a bond in accordance with the provisions of Section 1468 of the California Street and Highways Code.

6. The county department of transportation and public works shall adopt procedures to implement this sub-section.”

SECTION 11. Section 12.10.080 shall be deleted and the following revised Section 12.10.080 shall be adopted and substituted in place of the deleted section:

**“12.10.080 Performance security required--Amount.**

A. Prior to issuance of any encroachment permit other than a blanket permit to a public agency, each applicant shall be required to deposit a performance security with the county, in the form of cash, cashier’s check, certified check, or other form acceptable to the director of transportation and

public works. The amount of the security shall be seventy-five percent of the estimated cost of the work to be performed under the encroachment permit. The estimated cost of the work shall be determined in writing by a licensed engineer or licensed contractor and is subject to the approval of the director of transportation and public works. The security shall guarantee the faithful performance of all terms and conditions of the permit. Security requirements for Public Agencies shall be as set forth in subsection 12.10.060 above.

B. If the amount of security is inadequate to restore or repair any damage to the county road caused by incomplete or improper work done by the permittee, the director of transportation and public works shall have recourse against the permittee for any additional amount of money necessary to restore or repair the county road or complete the encroachment.

C. The director of transportation and public works may, in his or her discretion, waive or vary the security required by this section for minor encroachment work or utility installations.

D. If a driveway encroachment cannot be completed as required for a certificate of occupancy due to seasonal adverse weather or soil conditions, or other unforeseen conditions beyond the applicant's control, the director of transportation and public works may allow the issuance of a certificate of occupancy by the building department prior to completion of the encroachment when the applicant consents to additional conditions and provides additional security to guarantee completion of the driveway encroachment by executing a driveway completion agreement.”

SECTION 12. Section 12.10.110 shall be deleted and the following revised Section 12.10.110 shall be adopted and substituted in place of the deleted section:

**“12.10.110 Failure to complete or defects in work--Notification to remedy--  
Remedy by county.**

If an encroachment is not completed within the time allowed by the permit, or the encroachment is not constructed or maintained in the manner required by this chapter or the permit, the director of transportation and public works shall notify the permittee in writing of the deficiency. If the encroachment is not completed or the defect is not remedied within the time specified in the written notice, the director of transportation and public works may cause the encroachment to be completed or the defect to be remedied. If, in the opinion of the director of transportation and public works, the uncompleted encroachment or defect constitutes an immediate danger to the public health, safety or welfare, the director may immediately complete, remedy, or remove the encroachment without prior notice to the permittee.”

SECTION 13. Section 12.10.120 shall be deleted and the following revised Section 12.10.120 shall be adopted and substituted in place of the deleted section:

**“12.10.120 Costs of repair deducted from performance security.**

If the director of transportation and public works completes, remedies, or removes an encroachment as provided in this chapter, the cost of the associated work shall be deducted from the permittee’s performance security. If the performance security is insufficient to fully reimburse the county for the cost of the work, the permittee shall be liable to reimburse the county for the costs of completing or remedying the defect that is in excess of the amount of the performance security. The payment of these excess costs shall be due and payable within five days after delivery to the permittee of a written statement of the amount due.”

SECTION 14. Section 12.10.140 shall be deleted and the following revised Section 12.10.140 shall be adopted and substituted in place of the deleted section:

**“12.10.140 Appeal.**

A. The actions of the director of transportation and public works in refusing to issue an encroachment permit, failing to act upon an application for an encroachment permit within thirty days after it is filed and deemed complete by the director of transportation and public works, imposing unreasonable terms or conditions on the permit, or revoking an encroachment permit may be appealed to the board of supervisors by filing a notice of appeal with the clerk of the board within ten days following from the action appealed.

B. The notice shall state one or more of the grounds for an appeal set forth in this section relied on by the appellant. The clerk shall within thirty days of notice schedule the appeal to be heard by the board of supervisors and shall notify the appellant and the director of transportation and public works of the date and time of the hearing on the appeal. At the time fixed for the hearing, the board of supervisors may take such action on the permit as the board finds just and may continue the hearing on the appeal from time to time by order entered into its minutes specifying the date and time of the continued hearing.”

SECTION 15. Sub-section 12.10.150 B shall be deleted and the following revised Sub-section 12.10.150 B shall be adopted and substituted in place of the deleted sub-section:

“B. The violation of any provision of this chapter shall constitute a public nuisance subject to abatement in any manner authorized by law, including, but not limited to, summary abatement by the director of transportation and public works pursuant to Section 1483 of the Streets and Highways Code and Section 3494 of the Civil Code; abatement by actions authorized by Section 373(a) of the Penal Code and Chapter 6, Division 2 of the Streets and Highways Code; and by suit for injunction.”

SECTION 16. This ordinance or a summary thereof shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 22nd day of February, 2011, by the following vote:

AYES: John Plasse, Richard M. Forster, Theodore F. Novelli, Louis D. Boitano and Brian Oneto

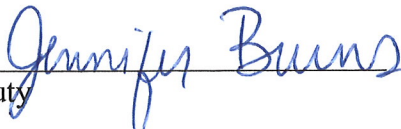
NOES: None

ABSENT: None

  
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Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the  
Board of Supervisors, Amador County, California

  
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Deputy